

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:05-cr-390

UNITED STATES OF AMERICA

vs.

RECCO SALAVES MEEKS (9)

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ORDER

**THIS MATTER** is before the Court upon motions of the defendant pro se for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines triggered by the Fair Sentencing Act of 2010 (FSA) and for appointment of counsel. (Doc. Nos. 451, 452).

The defendant was sentenced to achieve an aggregate sentence of 240 months' imprisonment pursuant to the mandatory minimum sentence prescribed in 21 U.S.C. § 841(b)(1)(A), based on his guilty plea to conspiracy to possess with intent to distribute 50 grams or more of a mixture and substance containing cocaine base.<sup>1</sup> (Doc. No. 143: Plea Agreement; Doc. No. 193: § 851 Notice; Doc. No. 286: Judgment; Doc. No. 287: Statement of Reasons). Accordingly, the recent change in the guidelines does not affect the defendant's sentence. Neal v. United States, 516 U.S. 284, 296 (1996) (retroactive amendment to guidelines does not alter statutory mandatory minimum); United States v. Bullard, 645 F.3d 237, 248 (4th Cir. 2011) (FSA does not apply retroactively); United States v. Hood, 556 F.3d 226, 233 (4th Cir. 2009) (Sentencing Commission has no authority to lower statutory mandatory minimum).

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<sup>1</sup> The sentence was adjusted to give the defendant credit for time spent in state custody for the same conduct. (Doc. No. 285: Order).

**IT IS, THEREFORE, ORDERED** that the defendant's motion for a sentence reduction (Doc. No. 451) is **DENIED**.

**IT IS FURTHER ORDERED** that the defendant's motion for appointment of counsel (Doc. No. 452) is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: November 1, 2011

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
Chief United States District Judge

